

The United States District Court For The  
Eastern District of Texas  
Marshall Division

Everett C. Gladney	§	
	§	
vs.	§	C.A. No. 2:22-cv-79
	§	
The Kansas City Southern Railway Company	§	Jury Trial Demanded
	§	

**Complaint**

To The Honorable Judge of Said Court:

Comes Now Everett C. Gladney, complaining of The Kansas City Southern Railway Company (herein after referred to as “KCSR”) for cause of action would show unto this Honorable Court as follows:

**Parties**

1. Mr. Everett Gladney is a railroad worker and a resident and citizen of the State of Louisiana.

2. KCSR is a foreign corporation which resides in and is subject to personal jurisdiction in the Eastern District of Texas in that it has regular and systematic contact with this District and is at home in this District. Service of process may be had upon KCSR by serving KCSR's registered agent: C.T. Corporation System, 1999 Bryan Street, Ste. 900, Dallas, Texas 75201.

3. At all times mentioned in this complaint, KCSR was a common carrier by railroad engaged in interstate commerce through and between the several states. At all relevant times, Mr. Gladney was employed by KCSR to further those activities.

**Venue and Jurisdiction**

4. Plaintiff's rights and remedies against KCSR arise under the Federal Employers'

Liability Act, 45 U.S.C. §51, *et seq.*, this court has jurisdiction in this case pursuant to Federal Employers' Liability Act, 45 U.S.C. §51, *et seq.*

5. Venue is proper in this matter pursuant to the terms of Title 28 U.S.C. §1391(b)(1-2) in that Defendant resides in the Eastern District of Texas and has regular and systematic contacts with this District and Division and in that this cause of action arose in the Eastern District of Texas, Marshall Division.

#### **FELA Cause of Action**

6. On or about October 10, 2021, Plaintiff was working for KCSR as a conductor when he suffered injuries to his neck, lower back and other parts of his body. More specifically, Mr. Gladney suffered the injuries when trying to grab a rail car grab iron. The rail car grab iron broke and/or gave way causing Mr. Gladney to fall and suffer injury.

7. The injury to Plaintiff was due in whole or in part to the negligence of KCSR, its agents, servants or employees acting in the course and scope of their employment. KCSR had a duty to provide Plaintiff with a safe place to work. KCSR breached this duty causing Plaintiff's injuries. Specifically, but without limitation, KCSR failed to provide Plaintiff with a safe place to work and walk; failed to provide reasonably safe tools, equipment, rail car and appurtenances; failed to warn; failed to safely inspect, repair, and maintain; failed to establish and enforce proper safety procedures; failed to provide adequate manpower; failed to properly instruct, train and supervise; and failed to follow applicable rules, regulations, codes and industry standards. KCSR knew or should have known that its negligence and wrong doing was likely to cause injury.

#### **KCSR's Violations of Federal Railroad Statutes and Regulations**

8. The injury to Plaintiff was due in whole or in part, to Defendant's violation of federal

safety statutes and regulations including, but not limited to, the Safety Appliance Act and Federal Railroad Safety Regulations. More specifically, KCSR violated 49 U.S.C. 20301, *et seq.*, 49 U.S.C. 20302, 49 C.F.R. 215, and 49 C.F.R. 231. KCSR's statutory and regulatory violations amount to negligence as a matter of law and caused the injuries and damages discussed herein. 45 U.S.C. § 53-54a. KCSR knew or should have known that its negligence and wrong doing was likely to cause injury.

### **Damages**

9. As a legal result of Defendant's negligence and wrongdoing, Mr. Gladney has suffered serious injuries and impairment to his body. These injuries have had a serious effect on Mr. Gladney's health and well being. As a result of the incidents complained of herein, Mr. Gladney has suffered in the past and, within reasonable medical probability, will continue to suffer in the future from physical impairment and disfigurement past and future.

10. Because of the nature and consequences of his injuries, Mr. Gladney has suffered great physical and mental pain, suffering and anguish in the past and future.

11. At the time of the incident complained of, Mr. Gladney was gainfully employed. Mr. Gladney has lost wages and benefits in the past and will have a loss of future earning capacity.

12. As a further result thereof, Mr. Gladney has incurred and will incur expenses for medical care and attention, such as physicians' fees, medical supplies, appliances, medicine, hospitalization and nursing service in the past and future. These expenses were incurred and will be incurred for necessary care and treatment of the injuries resulting from the incidents complained of above. The charges for the said expenses were and will be reasonable and they were the customary charges made for such services in the area in which they were rendered.

13. To the extent that Mr. Gladney suffered from a pre-existing condition, the injury of October 10, 2021 aggravated and exacerbated his condition and made it significantly worse.

**Prayer**

WHEREFORE, PREMISES CONSIDERED, Mr. Gladney requests that Defendant be summoned to appear and answer, and that upon final trial, judgment be rendered against Defendant, in excess of SEVENTY-FIVE THOUSAND AND NO/100THS DOLLARS (\$75,000.00), exclusive of interest and costs, prejudgement interest, plus post-judgment interest at the legal rate from Defendant, and for all costs of court. Mr. Gladney would further pray for any such other relief, both at law and in equity, to which he may show himself justly entitled.

**PLAINTIFF DEMANDS A JURY TRIAL**

Respectfully submitted,

/s/ Bristol Baxley \_\_\_\_\_

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